

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Bernardo Gutierrez	Team: Team # 5	CCRB Case #: 201110155	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/31/2011 11:25 PM, Friday, 08/12/2011 12:00 AM	Location of Incident: § 87(2)(b) 101st Precinct stationhouse	Precinct: 101	18 Mo. SOL 1/31/2013	EO SOL 1/31/2013	
Date/Time CV Reported Mon, 08/01/2011 12:46 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/05/2011 2:10 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			101 PCT
2. POM Keith Horn	02076	940271	101 PCT
3. POM Duane Atkinson	12891	929662	101 PCT
4. SGT Alexander Wancel	04043	935951	101 PCT
5. POM Carlos Segovia	26422	937513	101 PCT
6. POM Michael Maloney	23646	932947	101 PCT
7. POM Justin Ellis	18965	944536	101 PCT
8. POF Pegeen Roberto	12149	935606	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Hayes	17315	944640	101 PCT
2. POM Jeffrey Liu	24339	943491	101 PCT
3. SGT Kimberly Hilliard	01940	§ 87(2)(b)	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Alexander Wancel	Force: On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.POM Keith Horn	Force: On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn pointed his gun at § 87(2)(b)	§ 87(2)(b)
C.SGT Alexander Wancel	Abuse: On July 31, 2011, Sgt. Alexander Wancel supervised the entry and search of apartment § 87(2)(b) of § 87(2)(b) in Queens.	§ 87(2)(b)
D.SGT Alexander Wancel	Discourtesy: On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel spoke rudely to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
E.POM Keith Horn	Discourtesy: On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn spoke rudely to § 87(2)(b)	
F.POF Pegeen Roberto	Abuse: On July 31, 2011, at the 101st Precinct stationhouse, PO Pegeen Roberto strip-searched § 87(2)(b)	
G.POM Duane Atkinson	Abuse: On August 12, 2011, PO Duane Atkinson entered apartment § 87(2)(b) of § 87(2)(b) in Queens.	
H.POM Carlos Segovia	Abuse: On August 12, 2011, PO Carlos Segovia entered apartment § 87(2)(b) of § 87(2)(b) in Queens.	
I.POM Duane Atkinson	Discourtesy: On August 12, 2011, at § 87(2)(b) in Queens, PO Duane Atkinson spoke rudely to § 87(2)(b)	
J. Officers	Abuse: On August 12, 2011, officers searched apartment § 87(2)(b) of § 87(2)(b) in Queens.	
K.POM Duane Atkinson	Force: On August 12, 2011, at § 87(2)(b) in Queens, PO Duane Atkinson used pepper spray against § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

## Case Summary

§ 87(2)(b) filed this complaint on behalf of her daughters, § 87(2)(b) and § 87(2)(b) with IAB on August 1, 2011, where it received log number 11-34875 (encl. 3). On August 5, 2011, IAB forwarded the complaint to the CCRB (encl. 4A-4C). § 87(2)(b) and § 87(2)(b) were both arrested on July 31, 2011, and August 12, 2011, at § 87(2)(b) in Queens. The following allegations resulted:

**Allegation A- Force:** On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel pointed his gun at § 87(2)(b)

**Allegation B- Force:** On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn pointed his gun at § 87(2)(b) § 87(2)(g)

**Allegation C- Abuse of Authority:** On July 31, 2011, Sgt. Alexander Wancel supervised the entry and search of apartment § 87(2)(b) of § 87(2)(b) in Queens. § 87(2)(g)

**Allegation D- Discourtesy:** On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel spoke rudely to § 87(2)(b)

**Allegation E- Discourtesy:** On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn spoke rudely to § 87(2)(b)

**Allegation F- Abuse of Authority:** On July 31, 2011, at the 101st Precinct stationhouse, PO Pegeen Roberto strip-searched § 87(2)(b) § 87(2)(g)

**Allegation G- Abuse of Authority:** On August 12, 2011, PO Duane Atkinson entered apartment § 87(2)(b) of § 87(2)(b) in Queens.

**Allegation H- Abuse of Authority:** On August 12, 2011, PO Carlos Segovia entered apartment § 87(2)(b) of § 87(2)(b) in Queens. § 87(2)(g)

**Allegation I- Discourtesy:** On August 12, 2011, at § 87(2)(b) in Queens, PO Duane Atkinson spoke rudely to § 87(2)(b) § 87(2)(g)

**Allegation J- Abuse of Authority:** On August 12, 2011, officers searched apartment § 87(2)(b) of § 87(2)(b) in Queens. § 87(2)(g)

**Allegation K- Force:** On August 12, 2011, at § 87(2)(b) in Queens, PO Duane Atkinson used pepper spray against § 87(2)(b) § 87(2)(g)

§ 87(4-b), § 87(2)(g)

## Results of Investigation

### Civilian Statements

#### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *at the time of the incident, is a black female. She resided at § 87(2)(b) § 87(2)(b) in Queens, at the time of the incident.*

### Telephone Statements

§ 87(2)(b) filed the complaint with IAB, on August 1, 2011, where it received log number § 87(2)(b) (encl. 3). She did not witness the July 31, 2011, incident. On October 17, 2011, § 87(2)(b) provided a telephone statement regarding the August 12, 2011, incident (encl. 8).

On August 12, 2011, at approximately 3:39 p.m., § 87(2)(b) and § 87(2)(b) entered the apartment. Both sisters related that they had been involved in a physical altercation. Less than five minutes later, individuals identifying themselves as police officers knocked on the apartment door.

§ 87(2)(b) opened the door and approximately seven officers brushed past her. Approximately three officers went inside § 87(2)(b)'s bedroom after § 87(2)(b) and closed the door behind them. Two officers told § 87(2)(b)'s son, § 87(2)(b) "Shut up, you motherfucker." § 87(2)(b) opened the door to her bedroom despite an officer attempting to hold her back by pulling her by her waist.

When she opened the door, § 87(2)(b) saw one of the officers looking in one of her dresser drawers. Another officer was on top of § 87(2)(b) who was face down. The investigation identified this officer as PO Duane Atkinson. § 87(2)(b) and § 87(2)(b) were taken out of the apartment.

#### **Victim:** § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *at the time of her interview, is a black female who is 5'9" tall, weighs 137 pounds and has black hair and brown eyes. She was incarcerated at the time of her interview.*

### Statements to Medical Personnel

§ 87(2)(b), § 87(2)(b) was treated at the emergency department of § 87(2)(b). She stated that she was "assaulted by NYPD." She complained of pain all over her body, especially in her abdominal area. She stated that she may have been pregnant. § 87(2)(b), § 87(2)(b) told ambulance personnel that she had been pepper sprayed by officers. She attended § 87(2)(b) on this date and complained of "burning eyes" (encl. 5A-5E).

### CCRB Testimony

On September 20, 2011, § 87(2)(b) was interviewed at the Rose M. Singer Center on Rikers Island (encl. 6A-6G). On July 31, 2011, at 11:25 p.m., at § 87(2)(b) in Queens, § 87(2)(b) called 911 to make a complaint on behalf of § 87(2)(b)'s friend, known as § 87(2)(b). A male acquaintance of § 87(2)(b)'s had struck her with a pistol while § 87(2)(b) and § 87(2)(b) were present. § 87(2)(b) called 911 to report the male's action and mentioned that he was in possession of a firearm.

Two uniformed officers, identified by the investigation as Sgt. Alexander Wancel and PO Keith Horn, knocked on the apartment door, and the door was opened for them. § 87(2)(b) did not specify who opened the door. Both officers had their guns displayed, and pointed them at § 87(2)(b) and § 87(2)(b). The group repeatedly told the officers that the male had left the apartment. § 87(2)(b) said, "What the fuck are you doing?" and was agitated because she felt that the officers could have caught the male if they would have left the apartment immediately.

The officers searched both of the rooms that comprise the apartment and stated, "Clear" when done. Sgt. Wancel told § 87(2)(b) "Why the fuck are you cursing at me for?" § 87(2)(b) protested his pointing his gun at them, and Sgt. Wancel responded, "Don't tell me how to fucking do my job." Sgt. Wancel ordered § 87(2)(b) and § 87(2)(b) to walk into the hall and both complied. Sgt. Wancel placed handcuffs on § 87(2)(b) and pushed her against the wall while grabbing her by the arms. § 87(2)(b) did not resist arrest.

§ 87(2)(b) was crying and moved her shoulders from side to side as PO Horn placed handcuffs behind her back. Unidentified individuals who exited apartment § 87(2)(b) witnessed the entire incident. An unidentified officer other than Sgt. Wancel or PO Horn, tripped § 87(2)(b) causing her to fall to the ground. This officer told § 87(2)(b) "Shut the fuck up," and pushed her against a stairwell door. He also called her a "stupid bitch."

The officers took the sisters out of the building. As the officers were walking them towards a police car, § 87(2)(b) followed the group out of the building and asked the officers what was happening. § 87(2)(b) did not specify where § 87(2)(b) had come from. An unidentified officer that was walking outside with the group, told § 87(2)(b) to get back. § 87(2)(b) was agitated and insisted on knowing what was happening with his sisters. This same officer told § 87(2)(b) to, "Get the fuck back" and kicked him away by extending his full leg, making contact with § 87(2)(b)'s genital area.

As she was being escorted to the police vehicle, § 87(2)(b) bent down and stated that she could not get up. She asked for an ambulance and the officer who had used force against her earlier said, "You don't get no fucking bus." This officer knelt § 87(2)(b) on the forehead. Two female officers, identified as Officers Pegeen Roberto and Dayle Bensenhaver, transported § 87(2)(b) to the 101<sup>st</sup> Precinct stationhouse.

On August 12, 2011, at approximately 3:39 p.m., § 87(2)(b) and § 87(2)(b) were walking into the lobby of § 87(2)(b). A female relative of the male who § 87(2)(b) had called police on, began to punch § 87(2)(b). The investigation identified this female as § 87(2)(b). § 87(2)(b) attempted to break up § 87(2)(b) and § 87(2)(b) by taking out her Swiss army knife, extending the blade, and holding the knife with her outstretched arm in between both women. § 87(2)(b)'s violent movements caused her to cut herself upon the knife. § 87(2)(b) did not state where § 87(2)(b) had cut herself.

§ 87(2)(b) and § 87(2)(b) ran upstairs to their apartment, § 87(2)(b), § 87(2)(b), and § 87(2)(b) were inside the apartment at the time. Approximately ten minutes later, two officers in plainclothes, PO Duane Atkinson and PO Carlos Segovia, knocked on the door. § 87(2)(b)

answered the door, was told to step aside, and both officers rushed into the apartment. PO Segovia entered § 87(2)(b)'s room and tripped her, causing her to fall onto the ground. PO Atkinson then handcuffed her.

PO Atkinson and PO Segovia brought § 87(2)(b) and § 87(2)(b) into the hallway. § 87(2)(b) did not state when or how § 87(2)(b) was placed in handcuffs. § 87(2)(b) noticed that both officers were looking through the apartment. Approximately three additional plainclothes officers, all Caucasian, arrived and assisted in searching the apartment. § 87(2)(b) was unable to provide additional details regarding these officers. § 87(2)(b) saw these additional officers opening and looking inside a closet inside her room.

§ 87(2)(b) and § 87(2)(b) were escorted downstairs into the building's basement. No officers aside from Officers Atkinson and Segovia were present. PO Segovia held § 87(2)(b) against a wall with his left forearm against her back and using his right arm, pushed her head into the wall multiple times. § 87(2)(b) was ordered by PO Atkinson to sit on the ground. She initially refused, but complied upon PO Atkinson pulling on one of her pant legs. She sat down in a cross-legged "Indian-style position." PO Atkinson took out his can of mace and held it less than an inch of distance from § 87(2)(b)'s eyes. PO Atkinson sprayed § 87(2)(b) in both eyes while she was seated, for approximately one minute.

§ 87(2)(b) and § 87(2)(b) were escorted from the basement and were brought back out of the building through the lobby. § 87(2)(b) was placed inside a passing ambulance, and was transported to § 87(2)(b). She was taken to the 101<sup>st</sup> Precinct stationhouse after several hours.

**Victim:** § 87(2)(b)

- § 87(2)(b) § 87(2)(b) at the time of her interview, is a black female who is 5'6" tall, weighs 124 pounds and has black hair and brown eyes. She was incarcerated at the time of her interview.

**Statement to Medical Personnel**

§ 87(2)(b) was treated at the hospital on the same date and stated that she had been "mistreated by NYPD," and that she had pain in her lower abdomen after being struck (encl. 5F).

**CCRB Statements**

On September 20, 2011, § 87(2)(b) was interviewed at § 87(2)(b) on Rikers Island (encl. 7A-7F). On July 31, 2011, shortly before 11:25 p.m. at § 87(2)(b) in Queens, § 87(2)(b) received a telephone call from her friend, § 87(2)(b) asking for help due to a male named "§ 87(2)(b)" refusing to leave her apartment. § 87(2)(b) and § 87(2)(b) went up to § 87(2)(b)'s apartment. § 87(2)(b) § 87(2)(b) struck § 87(2)(b) with a pistol once on the left side of her face. § 87(2)(b) called 911 on the house phone and related that there was a male present in the apartment with a gun. § 87(2)(b) left the apartment and the door was closed behind him.

Approximately five minutes later, § 87(2)(b) heard knocking and answered the door. Two uniformed officers, Sgt. Wancel and PO Horn, were present. Sgt. Wancel had a yellow gun with a black handle which emitted a red beam. PO Horn had a handgun pointed at the ground. Once the door was opened by § 87(2)(b) they identified themselves as police officers, and rushed inside. Sgt. Wancel stood with the group in the living room, as PO Horn went into each room in the apartment. Sgt. Wancel told everyone to exit the apartment. § 87(2)(b) and § 87(2)(b) told the officers to, "Get the fuck out" and that § 87(2)(b) was not present. The civilians complied and exited the apartment into the hallway.

When the officers exited the apartment, Sgt. Wancel approached § 87(2)(b) and told her, “Shut the fuck up,” while simultaneously pushing his upper chest against her. This action caused § 87(2)(b) to strike her head against the wall. Sgt. Wancel turned § 87(2)(b) around, and pinned her left arm behind her back. § 87(2)(b) asked Sgt. Wancel why § 87(2)(b) was being arrested.

PO Horn grabbed § 87(2)(b) by the back of her left arm, and twisted it by placing her forearm on the middle of her back and pushed her against a corner of the hallway. The left side of her jaw made contact with the wall, causing minor swelling. § 87(2)(b) moved her arm due to the pain and repeatedly told PO Horn to get off of her. PO Horn told her, “Shut the fuck up, bitch.” PO Horn tried to force § 87(2)(b) to go to the elevator but she refused. PO Horn pushed § 87(2)(b) to the ground, causing a surgical staple from a recent appendectomy to open. PO Horn placed his knee on the middle of § 87(2)(b)'s back and handcuffed her. Two additional officers and two security guards employed by the complex were present for the incident. § 87(2)(b) described the additional officers as a black male and Asian male, and described the security guards as consisting of a Hispanic male and a black male. None of these individuals, as per her descriptions, were identified.

§ 87(2)(b) was transported to the 101<sup>st</sup> Precinct stationhouse by Sgt. Wancel and PO Horn. Once at the 101<sup>st</sup> Precinct stationhouse, § 87(2)(b) was brought in front of the front desk and was searched by a female, described as a white female with blond hair, approximately 5’7” tall, a medium build, approximately 30 years old. This officer was identified by the investigation as PO Pegeen Roberto. PO Roberto lifted up § 87(2)(b)'s t-shirt, exposing her brassiere up to the nipple area. PO Roberto patted § 87(2)(b) on her genital area on top of her clothing. § 87(2)(b) asked PO Horn to go to the hospital and was transported to § 87(2)(b).

§ 87(2)(b) did not mention any complaint about the incident on August 12, 2011, and did not provide a statement in regards to this date.

### **Attempts to Contact Civilians**

§ 87(2)(b) and § 87(2)(b) were called five times between September 28, 2011, and November 3, 2011. § 87(2)(b) missed an appointment to appear at the CCRB on October 25, 2011. Two letters were each sent to § 87(2)(b) and § 87(2)(b) between September 28, 2011, and November 3, 2011. These letters were not returned by United States Postal Service. A Lexis Nexis search yielded multiple individuals tenants of apartment § 87(2)(b). No telephone number was listed for the apartment. The search yielded one number for a tenant of apartment § 87(2)(b) listed as “§ 87(2)(b). This number was contacted and found to be out of service. Two letters were each sent to the tenants of apartments § 87(2)(b) and § 87(2)(b) and were not returned by United States Postal Service. No one from either apartment has contacted the undersigned investigator.

### **NYPD Statements:**

#### **Subject Officer: SGT. ALEXANDER WANCEL**

- *Sgt. Wancel, § 87(2)(b) old at the time of the incident, is a Hispanic male who is 5’8” tall, weighs 180 pounds and has brown hair and brown eyes.*
- *On July 31, 2011, Sgt. Wancel was assigned to duty as patrol supervisor in uniform from the hours of 2:50 p.m. to 11:47 p.m. Sgt. Wancel was partnered with PO Keith Horn and was assigned to marked police vehicle 3509.*

### **Memo Book**

At 11:02 p.m., Sgt. Wancel received a call regarding a dispute involving a firearm at § 87(2)(b). At 11:17 p.m., Sgt. Wancel arrived at the scene. Females created a dangerous situation by screaming and cursing. A female pushed Sgt. Wancel and struck him with her foot. PO Horn made two arrests at 11:35 p.m. At 12:00 a.m., Sgt. Wancel went to § 87(2)(b) in regard to being kicked in the groin (encl. 9A-9D).

### **Line of Duty Report**

Sgt. Wancel related that he was struck in the scrotum while attempting to restrain and arrest “violent perps.” (encl. 200).

### **AIDED Report**

§ 87(2)(a) PHL § 18(6)

### **CCRB Testimony**

Sgt. Wancel was interviewed at the CCRB on January 5, 2012 (encl. 9E-9G). On July 31, 2011, at approximately 11:25 pm., Sgt. Wancel received a call regarding a dispute with a gun. Sgt. Wancel and PO Horn took the elevator to the § 87(2)(b). Sgt. Wancel knocked on apartment § 87(2)(b) and at least two females opened the door. Both females began to scream and curse at the officers. He did not specify if they had been screaming and cursing in regard to anything in particular. Sgt. Wancel asked if someone had a gun and one of the females said, “Yeah, the motherfucker has a gun.” At this point, Sgt. Wancel brushed past the females along with PO Horn, to verify that there was no one with a firearm inside. The officers had their firearms drawn. Sgt. Wancel did not point his firearm at anyone. Sgt. Wancel exited the apartment and he intended to leave the building.

§ 87(2)(b) followed Sgt. Wancel outside of the apartment and pushed him on his chest. Sgt. Wancel did not state if § 87(2)(b) was saying anything in particular at this point in time. Sgt. Wancel made the decision to arrest her for § 87(2)(b). Sgt. Wancel did not recall saying, “Why the fuck are you cursing at me for,” or “Don’t tell me how to fucking do my job.” § 87(2)(b) resisted arrest by refusing to place her hands behind her back, and by kicking, pushing, and spitting. Sgt. Wancel held § 87(2)(b) against a wall and attempted to maneuver her arms behind her back. He did not push her against the wall.

§ 87(2)(b) attempted to interfere in § 87(2)(b)’s arrest by physically placing herself in between Sgt. Wancel and § 87(2)(b). PO Horn attempted to place § 87(2)(b) under arrest and she refused orders to place her hands behind her back and resisted arrest. Sgt. Wancel could not recall the manner in which § 87(2)(b) physically resisted arrest by PO Horn and did not notice PO Horn hold or push her against a wall. Sgt. Wancel did not observe § 87(2)(b) fall or be pushed to the ground by PO Horn. Sgt. Wancel did not hear PO Horn use profanity, including, “Shut the fuck up, bitch.” Sgt. Wancel also did not make this statement. Sgt. Wancel did not hear any officer say, “Get the fuck back” and did not see any officer strike or kick any individual.

After exiting the building, Sgt. Wancel called for an additional unit to help control the situation. As Sgt. Wancel was making the call, § 87(2)(b) kicked him in the groin. Multiple units from both the 100<sup>th</sup> and 101<sup>st</sup> Precincts arrived after he was kicked. He did not specify what these officers did upon arriving. Once at the stationhouse, Sgt. Wancel did not see a female officer lift one of the defendant’s shirt to the brassiere area and frisk this individual’s genital area.

### **Subject Officer: PO KEITH HORN**



- PO Horn, § 87(2)(b) old at the time of the incident, is a white male who is 6'2" tall, weighs 185 pounds, and has blond hair and blue eyes.
- On July 31, 2011, PO Horn was assigned to duty as sergeant operator in uniform from the hours of 3:00 p.m. to 11:35 p.m. PO Horn was partnered with Sgt. Alexander Wancel and was assigned to a marked police vehicle, the number of which he did not have at the time of his interview.

### **Memo Book**

At 11:07 p.m., PO Horn received a call regarding a dispute involving a firearm at § 87(2)(b) Apt. § 87(2)(b). At 11:12 p.m., the complainants at the scene were noted to be highly uncooperative. One female lunged at the sergeant and was attempting to push, punch and kick. While the first female was being handcuffed, a second female attempted to block and push officers. Two arrests were made at 11:25 p.m. (encl. 10A-10C).

### **Online Booking Sheets**

It is noted that no complaint number was generated for the incident. The charges against § 87(2)(b) and § 87(2)(b) are noted as § 87(2)(b). They are both noted as attempting to punch and kick police officers and resisting arrest (encl. 10D-10I).

### **Supporting Deposition**

PO Horn related that he observed § 87(2)(b) attempting to punch and kick at officers. She was also noted as cursing, screaming, spitting, and threatening to harm officers. § 87(2)(b) attempting to interfere in the arrest of § 87(2)(b) (encl. 10J).

### **Medical Treatment of Prisoner Form**

On July 31, 2011, § 87(2)(b) is noted as being taken to § 87(2)(b) for "being pregnant." § 87(2)(b) complained of wrist pain, after resisting arrest and being handcuffed (encl. 19O-19P).

### **AIDED Witness Statement**

PO Horn related that he witnessed § 87(2)(b) kick Sgt. Wancel in the testicles (encl. 10K).

### **CCRB Testimony**

On January 5, 2012, PO Keith Horn was interviewed at the CCRB (encl. 10L-10N). On July 31, 2011, at approximately 11:25 p.m., PO Horn and Sgt. Wancel responded to the location. § 87(2)(b) and § 87(2)(b) began cursing at the officers while stating that someone had a gun. Both officers entered with their firearms drawn. He pointed his gun at the floor and did not point it at anyone. The officers conducted a brief search of all of the rooms in the small apartment to ensure that there was no one inside with a gun.

PO Horn did not use profanity, and did not believe he said, "Shut the fuck up, bitch." PO Horn could not recall if Sgt. Wancel used profanity, including, "Why the fuck are you cursing at me for?" or "Don't tell me how to fucking do my job." After exiting into the hallway, § 87(2)(b) spit at Sgt. Wancel and attempted to punch him. Sgt. Wancel grabbed § 87(2)(b) and attempted to place her arms in handcuffs. § 87(2)(b) refused to provide her arms. PO Horn could not recall if Sgt. Wancel pushed her against a wall when restraining her.

At this point, § 87(2)(b) attempted to grab Sgt. Wancel's arms from behind. PO Horn physically took § 87(2)(b) off of Sgt. Wancel but could not recall how. PO Horn could not

recall if he pushed § 87(2)(b) against a wall. He was unsure if she fell to the ground, but he did not push her to the ground. PO Horn did not hear an officer tell anyone to, “get the fuck back” and he did not do this. PO Horn did not see any officer kick a male and he did not do this.

Once at the stationhouse, PO Horn did not observe a female officer lift § 87(2)(b)'s shirt and frisk her genital area in front of the front desk. It was related to PO Horn that § 87(2)(b)'s medical record from St. Johns Hospital showed that she had sustained a bruise on her left wrist. PO Horn could not account for what would have caused this injury.

**Subject Officer: PO MICHAEL MALONEY**

- *PO Maloney, § 87(2)(b) old at the time of the incident, is a white male who is 5'7" tall, weighs 170 pounds, and has brown hair and hazel eyes.*
- *On July 31, 2011, PO Maloney was assigned to patrol of sector G in uniform from the hours of 3:00 p.m. to 11:35 p.m. He was partnered with PO Andrew Hayes and was assigned to a marked police vehicle, the number of which he did not have at the time of the interview.*

**Memo Book**

PO Maloney did not have his memo book with him at the time of his interview. He later provided a copy to the CCRB, which does not contain any memo book entries regarding this incident (encl. 12A-12B).

**CCRB Testimony**

On February 3, 2012, PO Maloney was interviewed at the CCRB (encl. 12C-12D). On July 31, 2011, at approximately 11:25 p.m., PO Maloney responded to § 87(2)(b) after multiple officers had already responded. He never entered the building. PO Maloney estimated that approximately 20 officers and six police vehicles were present upon his arrival. He observed a female being placed inside one of the police vehicles. Once the female was placed in the vehicle, and officers began to leave, PO Maloney left the scene.

**Subject Officer: PO PEGEEN ROBERTO**

- *PO Roberto, § 87(2)(b) old at the time of the incident, is a white female who is 5'4" tall, weighs 188 pounds and has blond hair and blue eyes.*
- *On July 31, 2012, PO Roberto was assigned to patrol of sectors C and D from the hours of 4:00 p.m. to 12:00 a.m. She was partnered with PO Dayle Bensenhaver and was assigned to a marked vehicle, number 5341.*

**Memo Book**

At 11:18 p.m., PO Roberto responded to a call for an additional unit at § 87(2)(b). At 11:24 p.m., PO Roberto transported a female to the 101<sup>st</sup> Precinct stationhouse. At 11:30 p.m., PO Roberto searched and lodged two female prisoners (encl. 13A-13D).

**CCRB Testimony**

PO Roberto was interviewed at the CCRB on June 21, 2012 (encl. 13E-13F). On July 31, 2012, at approximately 11:25 p.m. PO Roberto responded to § 87(2)(b) to transport § 87(2)(b) to the 101<sup>st</sup> Stationhouse. PO Roberto frisked and searched § 87(2)(b) and § 87(2)(b) in front of the desk. She did not specify the exact manner in which she did these things, but denied lifting the shirt of either female to the bra area or frisking either female over their genital area.

**Witness Officer: PO ANDREW HAYES**

- *PO Hayes, § 87(2)(b) old at the time of the incident, is a white male who is 6'4" tall, weighs 265 pounds and has brown hair and brown eyes.*
- *On July 31, 2011, PO Hayes was assigned to patrol of sector G in uniform from the hours of 3:00 p.m. to 11:35 p.m. PO Hayes was partnered with PO Michael Maloney and was assigned to marked vehicle 5333.*

**Memo Book**

At 11:11 p.m., PO Hayes received a call of a possible crime at § 87(2)(b) (encl. 11A-11B).

**CCRB Testimony**

PO Hayes was interviewed at the CCRB on February 2, 2012 (encl. 11C-11D). PO Hayes had no independent recollection regarding the incident. PO Hayes was shown the related SPRINT report which shows sector G as responding to the location. This did not refresh his recollection. PO Hayes did not see either Sgt. Wancel or PO Horn push a female against a wall or to the ground. He did not hear Sgt. Wancel or PO Horn use profanity against a female. He did not hear either officer tell a female, "Why the fuck are you cursing at me for," "Don't tell me how to fucking do my job," "Shut the fuck up, bitch," or call a female a "stupid bitch." PO Hayes had no recollection of a female officer at the 101<sup>st</sup> Precinct stationhouse frisking a female over her genitals or lifting her shirt up to her bra area.

**Subject Officer: PO DUANE ATKINSON**

- *PO Atkinson, § 87(2)(b) old at the time of the incident, is a black male who is 5'11" tall, weighs 265 pounds, and has black hair and brown eyes.*
- *On August 12, 2011, PO Atkinson was assigned to the Street Narcotics Enforcement Unit (SNEU) in plainclothes from the hours of 9:30 a.m. to 6:05 p.m. PO Atkinson was partnered with PO Carlos Segovia and was assigned to an unmarked vehicle, a Crown Victoria, Number § 87(2)(b).*

**Memo Book**

At 3:39 p.m., PO Atkinson noted two individuals being arrested at § 87(2)(b). § 87(2)(b) was arrested for § 87(2)(b) and § 87(2)(b) was arrested for § 87(2)(b). At 4:10 p.m., § 87(2)(b) admitted to stabbing the individual (encl. 14A-14B).

**Complaint Report**

Complainant § 87(2)(b) is noted as stating that she was punched and kicked by § 87(2)(b) and stabbed in her lower back by § 87(2)(b) (encl. 14C-14D).

**Online Booking Sheets**

§ 87(2)(b) is noted as relating that § 87(2)(b) stabbed her on her back, and that § 87(2)(b) punched and kicked her. Both § 87(2)(b) and § 87(2)(b) are noted as having flailed

their arms and kicked to prevent themselves from being handcuffed by officers (encl. 14E-14J).

### **Medical Treatment of Prisoner Form**

On August 12, 2011, § 87(2)(b) related that she had received pepper spray to her face. She complained of stomach pain. She is noted as having a contusion on an unspecified part of her body (encl. 19Q).

### **Criminal Court Complaint Report**

PO Atkinson related that the complainant § 87(2)(b), related that § 87(2)(b) struck her and § 87(2)(b) stabbed her with a kitchen knife in the lower back. He added that both sisters resisted arrest by flailing their arms, kicking walls, and pushing themselves against the ground (encl. 14K-14L).

### **CCRB Testimony**

On February 10, 2012, PO Atkinson was interviewed at the CCRB (encl. 14M-14O). On August 12, 2011, at approximately 3:39 p.m., a group of unknown number approached PO Atkinson and PO Segovia as they stood by a security booth outside § 87(2)(b) and informed them that someone had been stabbed. PO Atkinson noticed § 87(2)(b) exiting § 87(2)(b) with a stab wound to the back. § 87(2)(b) told PO Atkinson that she had been stabbed inside the building but was unsure of who had done it.

The officers spoke with a security guard, who told the officers that he had heard that the suspects lived in Apartment § 87(2)(b). PO Atkinson had not heard anyone relate this information to this guard. The officers headed to this apartment and noticed drops of blood in front of the door. PO Atkinson could hear sounds coming from behind the door which he stated sounded like boxes being moved. § 87(2)(b) answered the door and both officers asked if they could enter. She consented, and the officers entered.

PO Atkinson noticed that the noises were coming from a bedroom. The door to the bedroom was open and PO Atkinson entered. Approximately one minute after entering the room, § 87(2)(b) fell out of a closet, onto a bed. § 87(2)(b) sat up on the bed while holding her hands between her legs. PO Atkinson ordered her to show him her arms but she refused. PO Atkinson said, "Let me see your fucking hands." He lifted her off of the bed by her upper arms, and swept her legs from under her, causing her to fall on the ground. § 87(2)(b) was handcuffed immediately upon hitting the floor.

The officers attempted to briefly look around the apartment for traces of a knife but did not find anything. PO Atkinson did not specify where in the apartment the knife was searched for. PO Atkinson did not open any cabinets, stating that he was too preoccupied with § 87(2)(b). When asked if additional officers responded and searched through the apartment, he responded, "I don't know."

§ 87(2)(b) and § 87(2)(b) were led out of the apartment with PO Atkinson escorting § 87(2)(b). Both defendants, were kicking and scratching, and were taken to the lobby. § 87(2)(b) identified § 87(2)(b) and § 87(2)(b) as her attackers. The officers guided the two females to the basement, which consists of a hallway, and called for a car.

While awaiting transport, § 87(2)(b) continued to kick and scratch, at one point kicking PO Segovia on his legs. PO Atkinson did not specify how § 87(2)(b) would have scratched officers while being rear handcuffed. PO Atkinson told her to sit down, relax, and stop scratching,

and warned her that he would pepper spray her if she did not calm down. PO Atkinson fired a short burst of pepper spray at § 87(2)(b) while standing approximately two to three feet away. He did not mention any attempts to restrain her prior to doing so. He could not recall her position (sitting, standing) when she was sprayed, but believed that she had been standing. A transport vehicle arrived and PO Atkinson flagged a passing ambulance to accompany § 87(2)(b) to the hospital.

**Subject Officer: PO CARLOS SEGOVIA**

- *PO Segovia, § 87(2)(b) old at the time of the incident, is a Hispanic male who is 5'7" tall, weighs 205 pounds, and has black hair and brown eyes.*
- *On August 12, 2011, PO Segovia was assigned to the Street Narcotics Enforcement Unit (SNEU) in plainclothes from the hours of 9:30 a.m. to 6:05 p.m. PO Segovia was partnered with PO Duane Atkinson and was assigned to an unmarked vehicle, a blue Crown Victoria, number § 87(2)(b).*

**Memo Book**

At 1:39 p.m., PO Segovia noted two arrests made by PO Atkinson at § 87(2)(b) in regard to an assault in progress involving a knife (encl. 15A-15B).

**CCRB Testimony**

On February 10, 2012, PO Segovia was interviewed at the CCRB (encl. 15C-15E). On August 12, 2011, at approximately 3:39 p.m., PO Segovia and PO Atkinson observed § 87(2)(b) in front of § 87(2)(b). She stated that she had been stabbed and related that her assailants had gone upstairs. PO Segovia did not relate where on her body she had been stabbed.

The officers and a private security guard entered the building. PO Segovia heard another security guard speak to the security guard that was accompanying the officers over the radio. The other security guard stated something to the effect of § 87(2)(b) stating that her attackers had been sisters from a particular apartment. The apartment's number was provided with the radio call, but PO Segovia could not recall the exact number. PO Segovia could not recall if the other guard gave any additional information.

The officers and the security guard went upstairs to the § 87(2)(b) floor. PO Segovia noticed a blood trail in the hall, leading to a significant amount of blood in front of the door. There was not any blood next to any of the other doors in the hallway. The officers approached the door and PO Segovia heard rumbling noises coming from behind it. The officers knocked on the door and § 87(2)(b) opened it. The officers asked her who was in the house. § 87(2)(b) responded that her daughters were inside.

PO Segovia observed § 87(2)(b) peeking out at the doorway and § 87(2)(b) moving from side to side. PO Segovia heard sounds akin to someone running inside the apartment. The officers walked past § 87(2)(b) upon hearing the noise inside. When asked to articulate his reason for entering the apartment, PO Segovia said that he did so because he had seen people moving inside and believed it was possibly the perpetrators that were being searched for. PO Segovia could not recall if § 87(2)(b) was asked for permission to enter.

PO Atkinson entered a room with a partially closed door. PO Segovia followed behind. § 87(2)(b) suddenly fell out of a closet, onto a bed, and held her arms under her body upon falling out. PO Segovia did not see if PO Atkinson had brought the female to the ground due to being focused on the room's door, because members of § 87(2)(b)'s family were attempting to enter the room.

§ 87(2)(b) and § 87(2)(b) were handcuffed and were immediately escorted out of the apartment. From the moment that they were placed in handcuffs, they resisted violently by

screaming, cursing, jumping, kicking and making biting motions towards the officers. PO Segovia did not search through the apartment and could not recall any other officer doing so. PO Segovia could not recall any weapons being recovered at the scene.

§ 87(2)(b) and § 87(2)(b) were taken out of the building through the basement. PO Segovia followed approximately five feet behind PO Atkinson. He did not mention being kicked by either sister. As PO Segovia had his back turned to PO Atkinson in order to restrain § 87(2)(b) who was resisting in an unspecified manner, he smelled pepper spray. He did not see pepper spray used by PO Atkinson at any point. PO Segovia did not notice any evidence of the use of pepper spray on § 87(2)(b) including red eyes or wheezing. PO Segovia escorted § 87(2)(b) to the precinct stationhouse, and PO Atkinson accompanied § 87(2)(b) to the hospital. PO Segovia did not provide a reason as to why § 87(2)(b) would have needed to go to the hospital.

**Subject Officer: PO JUSTIN ELLIS**

- *PO Ellis, § 87(2)(b) old at the time of the incident, is a white male who is 6'3" tall, weighs 215 pounds, and has blond hair and blue eyes.*
- *On August 12, 2011, PO Ellis was assigned to anti-crime duty in uniform from the hours of 9:30 a.m. to 6:05 p.m. PO Ellis was partnered with PO Liu and was assigned to a Ford Fusion.*

**Memo Book**

PO Ellis did not have any memo book entries regarding the incident (encl. 16A-16C).

**CCRB Testimony**

On April 25, 2012, PO Ellis was interviewed at the CCRB (encl. 16D-16E). On August 12, 2011, at approximately 3:39 p.m., PO Ellis responded to the incident location due to officers calling for an additional unit over the radio. PO Ellis entered the location and saw several uniformed officers, over five in number, present. § 87(2)(b) and § 87(2)(b) were resisting by pulling away from officers. He did not mention if they were handcuffed at this point, or if they resisted in any other fashion. PO Ellis did not mention pepper spray being used at the scene. PO Ellis could not recall if he entered the apartment where the females had been arrested. PO Ellis did not search through the apartment, open any containers, cabinets, or drawers and did not see any officer do so.

**Witness Officer: PO JEFFREY LIU**

- *PO Liu, § 87(2)(b) old at the time of the incident, is an Asian male who is 5'7" tall, weighs 205 pounds, and has black hair and brown eyes.*
- *On August 12, 2011, PO Liu was assigned to anti-crime in plainclothes from 9:30 a.m. to 6:05 p.m. PO Liu was partnered with PO Ellis and was assigned to a Ford Fusion, RMP § 87(2)(b).*

**Memo Book**

- At 3:10 p.m., PO Liu responded to a call of a dispute, with a female being stabbed, at § 87(2)(b). He resumed patrol at 3:30 p.m. (encl. 17A-17B).

**CCRB Testimony**

On April 25, 2012, PO Liu was interviewed at the CCRB (encl. 17C-17D). On August 12, 2012, at approximately 3:10 p.m., PO Liu responded to officers requesting an additional unit at the location. PO Liu and PO Ellis went up to the floor where the incident had occurred and PO Liu saw a group of both uniformed and plainclothes officers standing in the hall. PO Liu saw an

open door and walked inside. § 87(2)(b) and § 87(2)(b) were brought out in handcuffs. He did not relate information regarding their demeanors or if pepper spray was used. PO Liu briefly stayed inside the apartment but left upon seeing that everything was under control. PO Liu did not search through the apartment and did not open any cabinets or containers. He did not observe any other officer do so.

#### **Additional Officer Interviewed**

Sgt. Kimberly Hilliard was interviewed on May 18, 2012, in regard to the July 31, 2011, incident. It was determined that she had not been on duty on this date. (encl. 18A-18D).

#### **NYPD Documents**

##### **SPRINT Communications CD and Reports**

On July 31, 2011, at 11:07 p.m., a female calling from apartment § 87(2)(b) of § 87(2)(b) stated that a female had sustained injuries after a male slapped her and threatened to shoot her. The male was related to still be at the location and in possession of a gun. At 11:16 p.m., a patrol sergeant is shown arriving at the scene. At 11:18 p.m., an officer from sector C asked to be shown responding. At 11:25 p.m., this officer verified two arrests. Officers from sector 101G arrive on the scene at 11:42 p.m. (encl. 19A-19D).

On August 12, 2011, at 3:27 p.m., a male caller stated that a female had been stabbed. At 3:30 p.m. anti-crime officers arrived on the scene. SNEU officers performed a vertical at the location at 3:31 p.m. At 3:32 p.m., SNEU officers stated that they had the perpetrator in custody. The anti-crime officers requested no further officers at 3:33 p.m. At 3:55 p.m., sector 101G is noted as transporting one perpetrator to the stationhouse (encl. 19E-19H).

##### **Roll Calls**

In the July 31, 2011 roll call, Sgt. Wancel is listed as the only patrol supervisor. PO Horn is noted to be the sergeant operator. Officers Maloney and Hayes are assigned to sector G. Officers Roberto and Bensenhaver are assigned to sector C (encl. 19I-19J).

In the August 12, 2011 roll call, officers Atkinson and Segovia are the only officers assigned to SNEU. Officers Ellis and Liu are the only officers assigned to anti-crime (encl. 19K).

##### **Command Logs**

The Command Log for July 31, 2011, shows § 87(2)(b) and § 87(2)(b)'s arrests being logged at 11:45 p.m. They are both listed as being removed to § 87(2)(b) due to stating that they are pregnant and complaining of pain (encl. 19L).

The Command Log for August 12, 2011, shows § 87(2)(b)'s arrest being logged at 4:00 p.m., and § 87(2)(b)'s arrest being logged at § 87(2)(b) after having been taken to § 87(2)(b) directly from the scene of her arrest (encl. 19M-19N).

##### **Officer Photographs**

Photographs were requested for PO Dayle Bensenhaver and PO Roberto (encl. 13G and 19R). PO Roberto fits the description provided for her by § 87(2)(b).

##### **Medical Records**

§ 87(2)(b) and § 87(2)(b) were transported to § 87(2)(b) on § 87(2)(b). § 87(2)(b) was diagnosed with nausea and vomiting. § 87(2)(b) was diagnosed as having a contusion on her left wrist (encl. 20A-20I).

On § 87(2)(b), § 87(2)(b) was transported to § 87(2)(b). Officers stated in the ambulance call report, that she was sprayed due to being aggressive. She was found to be negative for any other type of injury. Her eyes were flushed once at the hospital (encl. 20J-20N).

#### **Arrests For Incidents and Dispositions**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### **Civilian Criminal Histories**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]

#### **Civilians CCRB History**

- This is the first complaint filed by § 87(2)(b) and the first involving § 87(2)(b) or § 87(2)(b) (encl. 2K-2M).

#### **Subject Officers CCRB History**

- Sgt. Wancel has been a member of the service for eight years, with no substantiated allegations having been made against him (encl. 2A-2B).
- PO Horn has been a member of the service for six years, with no substantiated allegations having been made against him (encl. 2C).
- PO Maloney has been a member of the service for nine years, with no substantiated allegations having been made against him (encl. 2D).
- PO Roberto has been a member of the service for eight years, with no substantiated allegations having made against her (encl. 2E).
- PO Atkinson has been a member of the service for ten years, with the following substantiated allegation having been made against him (encl. 2F-2G).
  - In Case 200703932, a frisk allegation made against PO Atkinson was substantiated. No disciplinary action was taken by the NYPD.



- PO Segovia has been a member of the service for seven years, with no substantiated allegations having been made against him (encl. 2I).
- PO Ellis has been a member of the service for five years, with the following substantiated allegations having been made against him (encl. 2J).
  - In Case 200816433, retaliatory summons and stop allegations against PO Ellis were substantiated. The NYPD imposed a penalty of instructions.

## Conclusion

### Identification of Subject Officers

Sgt. Wancel and PO Horn were identified after the SPRINT report for July 31, 2011, showed a patrol supervisor as having responded to the location. Sgt. Wancel was the only patrol supervisor assigned on the first incident date, and the arresting officer for § 87(2)(b) and § 87(2)(b) PO Horn, was assigned as his partner. Both officers acknowledged interacting with both sisters, and matched the physical descriptions provided for them. PO Maloney and PO Roberto were identified as responding to the scene through the SPRINT information. PO Roberto acknowledged searching both females in front of the front desk at the 101<sup>st</sup> Precinct stationhouse, and her photograph matched § 87(2)(b)'s description.

Arresting officer PO Atkinson and PO Segovia were identified after the SPRINT report for August 12, 2011, showed officers assigned to SNEU as responding and performing a vertical search of the building. Both officers were the only officers assigned to SNEU as per the roll call. PO Ellis was identified as a subject after the roll call showed him as having been assigned to anti-crime, whose officers work in plainclothes. He is noted as the subject of a failure to prepare a memo book entry. No other white male officers in plainclothes were identified as having responded to the location. § 87(2)(g)

### Allegations Not Pleaded

§ 87(2)(b) stated that Sgt. Wancel and PO Horn pointed their guns at herself, § 87(2)(b) and § 87(2)(b). As § 87(2)(b) did not reiterate this allegation, and § 87(2)(b) did not provide a statement, § 87(2)(g) § 87(2)(b) alleged that she was pushed by Sgt. Wancel. § 87(2)(b) alleged that she was pushed by PO Horn. § 87(2)(g)

§ 87(2)(b). In her telephone statement, § 87(2)(b) related that officers told § 87(2)(b) "Shut up, you motherfucker." § 87(2)(b) stated that an officer told § 87(2)(b) "Get the fuck back," and kicked him in the groin. As a statement was not obtained from § 87(2)(b) § 87(2)(g) § 87(2)(b) alleged that on July 31, 2011, an officer told § 87(2)(b) "You don't get no fucking bus," called her a "stupid bitch," told her to, "Shut the fuck up," and that on August 12, 2011, PO Segovia pushed § 87(2)(b)'s head into a wall multiple times. As § 87(2)(b) did not reiterate these allegations, § 87(2)(g) § 87(2)(b) related that Sgt. Wancel told § 87(2)(b) "Shut the fuck up" while pushing his chest against her. § 87(2)(b) did not reiterate these allegations and they were not pleaded. § 87(2)(b) related that PO Atkinson tripped her and took her to the ground. § 87(2)(g)

**Allegation A- Force: On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel pointed his gun at § 87(2)(b)**

**Allegation B- Force: On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn pointed his gun at § 87(2)(b)**

§ 87(2)(b) related that Sgt. Wancel and PO Horn pointed their firearms at herself, § 87(2)(b) and § 87(2)(b) did not reiterate this allegation, saying instead that the officers had pointed their guns at the floor. Both officers denied pointing their guns at anyone.

§ 87(2)(g)

**Allegation C- Abuse of Authority: On July 31, 2011, Sgt. Alexander Wancel supervised the entry and search of apartment § 87(2)(b) of § 87(2)(b) in Queens.**

§ 87(2)(b) and § 87(2)(b) related that after the door was opened for Sgt. Wancel and PO Horn, both officers entered apartment § 87(2)(b) with their guns drawn, and began to look through the residence. Sgt. Wancel and PO Horn acknowledged entering the residence with their guns drawn in order to ensure that there was no one armed inside, upon being told that someone was in possession of a firearm. The testimony of both sisters and the SPRINT information confirmed that they had claimed that a man with a firearm had assaulted a female, and was present within the residence.

People v. Greenleaf notes three factors that would allow officers to enter a residence without a warrant in cases of emergency. These factors are: “(1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property. (2) The search must not be primarily motivated by intent to arrest and seize evidence. (3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched” People v. Greenleaf, 634 N.Y.S.2d 892 (1995) (encl. 1L-1M).

§ 87(2)(g)

**Allegation D- Discourtesy: On July 31, 2011, at § 87(2)(b) in Queens, Sgt. Alexander Wancel spoke rudely to § 87(2)(b)**

**Allegation E- Discourtesy: On July 31, 2011, at § 87(2)(b) in Queens, PO Keith Horn spoke rudely to § 87(2)(b)**

**Allegation F- Abuse of Authority: On July 31, 2011, at the 101st Precinct stationhouse, PO Pegeen Roberto strip-searched § 87(2)(b)**

§ 87(2)(b) related that Sgt. Wancel told her, “Why the fuck are you cursing at me for?” and, “Don’t tell me how to fucking do my job.” § 87(2)(b) stated that PO Horn told her, “Shut the fuck up, bitch.” § 87(2)(b) further alleged that once at the 101<sup>st</sup> Precinct stationhouse, PO Roberto lifted her shirt, exposing her brassiere up to the nipple area, and frisked her over her genital area on top of her clothing.

Sgt. Wancel did not recall saying, “Why the fuck are you cursing at me for,” or “Don’t tell me how to fucking do my job.” PO Horn could not recall if Sgt. Wancel made these statements. PO Horn did not believe he said, “Shut the fuck up, bitch,” and Sgt. Wancel denied PO Horn making this statement. PO Roberto acknowledged searching § 87(2)(b) and § 87(2)(b) while in front of the front desk, but denied exposing either female’s brassiere or frisking their genital area.

§ 87(2)(g)

**Allegation G- Abuse of Authority: On August 12, 2011, PO Duane Atkinson entered apartment § 87(2)(b) of § 87(2)(b) in Queens.**

**Allegation H- Abuse of Authority: On August 12, 2011, PO Carlos Segovia entered apartment § 87(2)(b) of § 87(2)(b) in Queens.**

§ 87(2)(b) stated that approximately ten minutes after returning to her residence, Officers Atkinson and Segovia rushed into the apartment upon § 87(2)(b) opening the door for them. § 87(2)(b) related that officers knocked on her apartment door less than five minutes after ##### and § 87(2)(b) entered the residence, and that approximately seven officers brushed past her.

PO Atkinson related that he and PO Segovia responded to the residence upon a security guard relating that he had heard that the suspects lived in apartment § 87(2)(b). PO Segovia stated that he overheard another security guard radio a security guard that § 87(2)(b) had described her assailants as sisters from a particular apartment. Both Officers Atkinson and Segovia related seeing blood in front of the apartment door that was noted by the guard. PO Segovia related that there was not any blood next to any of the other doors. PO Atkinson related hearing sounds like boxes being moved coming from inside the apartment. PO Segovia entered the apartment upon hearing running sounds come from within and seeing people moving inside. PO Atkinson said that § 87(2)(b) allowed the officers to enter upon PO Atkinson asking for her permission. PO Segovia could not recall if § 87(2)(b) was asked for permission to enter.

Police Department v. Grogan (OATH case 75073/99, April 20, 2000) (encl. 1A-1H), cites six factors in determining whether a warrantless entry into a residence is justified. The factors are: “(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; (6) the peaceful circumstances of the entry” (encl. 1F). It was also noted that not all of the factors had to be met to permit a warrantless entry.

§ 87(2)(g)

**Allegation I- Discourtesy: On August 12, 2011, PO Duane Atkinson spoke rudely to § 87(2)(b)**

§ 87(2)(b)

In his CCRB statement, PO Atkinson related that while searching for the perpetrator of a stabbing, § 87(2)(b) fell out of a closet in her room and onto a bed. She placed her hands in between her legs. PO Atkinson stated that he told § 87(2)(b) “Let me see your fucking hands,” after she refused a prior order to do so, and kept her hands in between her legs.

Court decisions regarding officers whose use of profanity occurred in order to gain compliance in a stressful situation have consistently found them not guilty of misconduct. Police Department v. Court (OATH case 79627/04, August 24, 2004) (encl. 1N-1V).

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation J- Abuse of Authority: On August 12, 2011, officers searched apartment of § 87(2)(b) in Queens.**

§ 87(2)(b) stated that after being apprehended, she witnessed officers opening and looking inside a closet in her room. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation K- Force: On August 12, 2011, at § 87(2)(b) in Queens, PO Duane Atkinson used pepper spray against § 87(2)(b)**

§ 87(2)(b) alleged that while she was handcuffed and in a seated position, PO Atkinson pepper sprayed her in the face. PO Atkinson acknowledged pepper spraying § 87(2)(b) while she was handcuffed, due to her violently resisting. PO Segovia reiterated PO Atkinson’s claim that both females were violently resisting, but denied seeing PO Atkinson use pepper spray. PO Segovia did not specify if § 87(2)(b) had been resisting immediately prior to his detecting pepper spray in the air. PO Ellis related that he saw both sisters pulling away from officers, but he did not mention the use of pepper spray and only Officers Atkinson and Segovia would have been present at the time that pepper spray was used, according to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team: 5

Investigator:	_____	Bernardo Gutierrez	September 18, 2012
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date